

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

UNITED STATES OF AMERICA)	DOCKET NO. 1:08-CR-55
)	
v.)	GOVERNMENT’S RESPONSE TO
)	DEFENDANT’S MOTION TO DISMISS
EDWARD WAHLER)	INDICTMENT WITH PREJUDICE FOR
)	LACK OF JURISDICTION
)	
)	

NOW COMES the United States of America, by and through Gretchen C.F. Shappert, United States Attorney for the Western District of North Carolina, and respectfully requests that the Court deny Defendant Edward Wahler’s Motion to Dismiss With Prejudice the Indictment for Lack of Jurisdiction.

Defendant Wahler’s motion challenges this Court’s jurisdiction and asserts that the Court is a “Foreign State.... and therefore lacks jurisdiction in the above captioned case.” Moreover, defendant Wahler asserts that he is also a “foreign state” and demands “full disclosure of the true and limited jurisdiction of this court.” Further, defendant Wahler states that he is immune from prosecution by a “Foreign State” and that the indictment brought against the Defendant must be dismissed for want of “*personam*, territorial and subject matter jurisdiction.” Defendant Wahler, through his patently frivolous motion, seeks dismissal of the indictment with prejudice.

The Fourth Circuit has ruled that “[s]ubject-matter jurisdiction (in the sense of judicial power) over federal criminal prosecutions is conferred on district courts by 18 U.S.C. § 3231.” *United States v. Hartwell*, 448 F.3d 707, 716 (4th Cir. 2006). Accordingly, a federal district court has jurisdiction over “all offenses against the laws of the United States.” *See* 18 U.S.C. § 3231 (2000). Moreover, “there can be no doubt that Article III permits Congress to assign federal criminal prosecutions to federal courts. That’s the beginning and the end of the ‘jurisdictional’

inquiry.” *Hartwell*, 448 F.3d at 716 (*quoting Hugi v. United States*, 164 F.3d 378, 380 (7th Cir.1999)).

Defendant Wahler’s claims that he is a “foreign state” are similarly misplaced and should be rejected by the Court. *United States v. Kilgore*, 2007 WL 4022840, *1 (4th Cir. 2007)(unpublished)(holding that “to the extent that [defendant] argues in his informal brief that he is a ‘Foreign Nation (not a person) who rules autonomously and [is] not subject to any entity or jurisdiction anywhere,’ his claim is patently meritless. Accordingly, we find that the district court properly exercised subject matter jurisdiction over [defendant’s] criminal prosecution under 18 U.S.C. § 3231”); *see also United States v. Burris*, 2007 WL 1891874, *1 (4th Cir. 2007)(unpublished)(rejecting defendant’s argument that his status as a “Moorish American National” deprived the court of jurisdiction and ruling that the argument was “patently frivolous” and that the “Federal district courts retain original jurisdiction over offenses against the laws of the United States”).

Accordingly, the Court should deny Defendant Wahler's frivolous motion. Additionally it is requested that this Court order that the defendant should file no further motions which assert frivolous positions and patently meritless “common law theories” which are contrary to well-settled law. In addition, the Government requests that the Court order Defendant Wahler's stand-by counsel to screen future pre-trial motions prior to filing. Finally, in the event that Defendant Wahler persists in filing such frivolous motions, it is requested that the Government not be required to respond unless otherwise directed by the Court.

Respectfully submitted this 29th day of July, 2008.

GRETCHEN C.F. SHAPPERT, United States Attorney

s/Mark T. Odulio

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of July, 2008, the foregoing was duly served upon counsel for the defendant in the following manner:

By electronic notification from the Court to:

Angela G. Parrott,
Counsel to Defendant (1) Kathy Ray Wahler
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The undersigned hereby declares that according to court docket pleadings, the following defendants do not have a counsel of record; therefore the foregoing Motion was not served:

(3) Lewis Vincent Hughes
(4) Richard Walser Turner

GRETCHEN C.F. SHAPPERT
UNITED STATES ATTORNEY

s/Mark T. Odulio
Assistant United States Attorney